

NOTICE OF INTENT

Department of Environmental Quality
Office of Water Resources
Water Pollution Control Division

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Pollution Control Division regulations, LAC 33:IX.2715, 2723, 2735 (Log #WP030*).

This proposed rule is identical to a federal regulation found in 62 FR 38405-38415, July 17, 1997, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule changes the number of public notices needed for a major modification from two to one. It also increases the number of modifications that will be considered minor modifications, and thus will not need to be public noticed. This change will equate Louisiana's regulations to the EPA federal regulations and will make the public notice requirements for pretreatment modifications the same as other modifications. The basis and rationale for this proposed rule are to mirror the federal regulations.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

A public hearing will be held on October 26, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by WP030*. Such comments must be received no later than October 26, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of WP030*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Linda Korn Levy
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations

Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution

§2715. Pretreatment Program Requirements: Development and Implementation by POTW

[See Prior Text in A - B]

C. Incorporation of Approved Programs in Permits. A POTW may develop an appropriate POTW Pretreatment Program any time before the time limit set forth in Subsection B of this Section. ~~If the POTW is located in a state which has an approved state permit program under section 402 of the Act and an approved state pretreatment program in accordance with LAC 33:IX.2719, or the POTW is located in a state which does not have an approved permit program under section 402 of the CWA the POTW's LPDES permit will be reissued or modified by the NPDES state or EPA, respectively, to incorporate the approved program conditions as enforceable conditions of the permit. The modification of a POTW's LPDES permit for the purposes of incorporating a POTW pretreatment program approved in accordance with the procedures in LAC 33:IX.2721 shall be deemed a minor permit modification subject to the procedures in LAC 33:IX.2385.~~

[See Prior Text in D - F.5.d.]

6. The POTW shall prepare and maintain a list of its industrial users meeting the criteria in LAC 33:IX.2705.*Significant Industrial User.a*, ~~Paragraph 1~~. The list shall identify the criteria in LAC 33:IX.2705.*Significant Industrial User.a*, ~~Paragraph 1~~ applicable to each industrial user and, for industrial users meeting the criteria in LAC 33:IX.2705.*Significant Industrial User.a.ii*, ~~Subparagraph 1.b~~, shall also indicate whether the POTW has made a determination in accordance with ~~pursuant to~~ LAC 33:IX.2705.*Significant Industrial User.b*, ~~Paragraph 2~~ that such industrial user should not be considered a significant industrial user. ~~This The initial list, and any subsequent modifications thereto, shall be submitted to the approval authority in accordance with LAC 33:IX.2717 as a nonsubstantial program modification in accordance with pursuant to LAC 33:IX.2735.B.2. Discretionary designations or de-designations by the control authority shall be deemed to be approved by the approval authority 90 days after submission of the list or modifications thereto, unless the approval authority determines that a modification is in fact a substantial modification. Modifications to the list shall be submitted to the approval authority in accordance with LAC 33:IX.2723.I.1.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24.

§2723. Reporting Requirements for POTWs and Industrial Users

[See Prior Text in A - I.2]

3. a summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period; ~~and~~

4. a summary of changes to the POTW's pretreatment program that have not been previously reported to the approval authority; and

~~45.~~ any other relevant information requested by the approval authority.

[See Prior Text in J-P.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24.

§2735. Modification of POTW Pretreatment Programs

[See Prior Text in A]

~~B. Procedures. POTW pretreatment program modifications shall be accomplished as follows:~~

~~1. for substantial modifications, as defined in Subsection C of this Section:~~

~~a. the POTW shall submit to the approval authority a statement of the basis for the desired modification, a modified program description (see LAC 33:IX.2717.B), or such other documents the approval authority determines to be necessary under the circumstances;~~

~~b. the approval authority shall approve or disapprove the modification based on the requirements of LAC 33:IX.2715.F, following the procedures in LAC 33:IX.2721.B)F;~~

~~c. the modification shall be incorporated into the POTW's LPDES permit after approval. The permit will be modified to incorporate the approved modification in accordance with LAC 33:IX.2385.A.7;~~

~~d. the modification shall become effective upon approval by the approval authority. Notice of approval shall be published in the same newspaper as the notice of the original request for approval of the modification under LAC 33:IX.2721.B.1.a.ii.~~

~~2. The POTW shall notify the approval authority of any other (i.e., non-substantial) modifications to its pretreatment program at least 30 days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Subsection B.1.a of this Section. Such non-substantial program modifications shall be deemed to be approved by the approval authority, unless the approval authority determines that a modification submitted is in fact a substantial modification, 90 days after the submission of the POTW's statement. Following such "approval" by the approval authority, such modifications shall be incorporated into the POTW's permit in accordance with LAC 33:IX.2385.A.7. If the approval authority determines that a modification reported by a POTW in its statement is in fact a substantial modification, the approval authority shall notify the POTW and initiate the procedures in Subsection B.1 of this Section.~~

~~C. Substantial Modifications Defined~~

1. The following are substantial modifications for purposes of this Section:

a. ~~changes to the POTW's legal authorities; modifications that relax POTW legal authorities (as described in LAC 33:IX.2715), except for modifications that directly reflect revision to the general pretreatment regulations, LAC 33:IX.Chapter 23.Subchapter T or Subchapter N, and reported in accordance with Subsection D of this Section;~~

b. ~~changes to local limits, which result in less stringent local limits; modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported in accordance with Subsection D of this Section. Maximum Allowable Industrial Loadings mean the total mass of a pollutant that all industrial users of a POTW (or a subgroup of industrial users identified by the POTW) may discharge in accordance with limits developed under LAC 33:IX.2709;~~

c. changes to the POTW's control mechanism, as described in LAC 33:IX.2715.F.1.c;

d. ~~changes to the POTW's method for implementing categorical pretreatment standards (e.g., incorporation by reference, separate promulgation, etc.);~~

e. a decrease in the frequency of self-monitoring or reporting required of industrial users;

f. a decrease in the frequency of industrial user inspections or sampling by the POTW;

g. changes to the POTW's confidentiality procedures; and

h. ~~other modifications designated as substantial modifications by the approval authority on the basis that the modification could have significant impact on the operation of the POTW's pretreatment program, could result in an increase in pollutant loadings at the POTW, or could result in less stringent requirements being imposed on industrial users of the POTW.~~

i. ~~significant reductions in the POTW's pretreatment program resources (including personnel commitments, equipment, and funding levels); and~~

j. ~~changes in the POTW's sludge disposal and management practices.~~

2. The approval authority may designate other specific modifications, in addition to those listed in Subsection ~~€~~B.1 of this Section, as substantial modifications.

3. A modification that is not included in Subsection ~~€~~B.1 of this Section is nonetheless a substantial modification for purposes of this Section, if the modification:

a. would have a significant impact on the operation of the POTW's pretreatment program;

b. would result in an increase in pollutant loadings at the POTW; or

c. would result in less stringent requirements being imposed on industrial users of the POTW.

C. Approval Procedures for Substantial Modifications

1. The POTW shall submit to the approval authority a statement of the basis for the desired program modification, a modified program description (see LAC 33:IX.2717.B), or such other documents the approval authority determines to be necessary under the circumstances.

2. The approval authority shall approve or disapprove the modification based on the requirements of LAC 33:IX.2715.F, following the procedures in LAC 33:IX.2721.B)F, except as provided in Subsection C.3-4 of this Section. The modification shall become effective upon approval by the approval authority.

3. The approval authority need not publish a notice of decision under LAC 33:IX.2721.E, provided the notice of request for approval under LAC 33:IX.2721.B states that the request will be approved if no comments are received by a date specified in the notice, no substantial comments are received, and the request is approved without change.

4. Notices required by LAC 33:IX.2721 may be performed by the POTW, provided that the approval authority finds that the POTW notice otherwise satisfies the requirements of LAC 33:IX.2721.

D. Approval Procedures for Nonsubstantial Modifications

1. The POTW shall notify the approval authority of any other (i.e., nonsubstantial) modifications to its pretreatment program at least 45 days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Subsection C.1 of this Section.

2. Within 45 days after the submission of the POTW's statement, the approval authority shall notify the POTW of its decision to approve or disapprove the nonsubstantial modification.

3. If the approval authority does not notify the POTW within 45 days of its decision to approve or deny the modification or to treat the modification as substantial under Subsection B.1.g of this Section, the POTW may implement the modification.

E. Incorporation in the Permit. All modifications shall be incorporated into the POTW's LPDES permit upon approval. The permit will be modified to incorporate the approved modification in accordance with LAC 33:IX.2385.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR .